



Arizona Regulatory Board of Physician Assistants

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Janet Napolitano
Governor
Albert Ray Tuttle, P.A.-C
Chairman
Timothy C. Miller, J.D.
Executive Director

FINAL MINUTES FOR REGULAR SESSION MEETING Held at 1:00 p.m. on August 24, 2005 9535 E. Doubletree Ranch Road - Scottsdale, Arizona

Board Members

Albert Ray Tuttle, P.A.-C, Chair
Joan M. Reynolds, P.A.-C, Vice Chair
Randy D. Daniels, Ph.D., P.A.-C
Michael E. Goodwin, P.A.-C
James Edward Meyer, M.D.
Sigmund Popko, J.D., Public Member
Anna Marie Prassa, Public Member
Peter C. Wagner, D.O.
Barry D. Weiss, M.D., FAAFP

WEDNESDAY, AUGUST 24, 2005

CALL TO ORDER

Albert Ray Tuttle, P.A.-C, Chair, called the meeting to order at 1:00 p.m.

ROLL CALL

The following Board members were present: Randy D. Daniels, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James Edward Meyer, M.D., Sigmund Popko, J.D., Anna Marie Prassa, Joan M. Reynolds, P.A.-C, Albert Ray Tuttle, P.A.-C, and Peter C. Wagner, D.O.
The following Board members were absent: Barry D. Weiss, M.D. FAAFP

CALL TO THE PUBLIC

Statements issued during the call to the public appear beneath the case referenced.

Executive Director's Report

Timothy C. Miller, J.D., Executive Director gave an overview of the state of the agency. Mr. Miller stated that the Board has the largest investigative staff it has ever had. New investigator positions were created and have been filled with qualified individuals with investigations. One entry-level position was created to allow for promotional opportunities internally. Promotional opportunities were created in various positions in the agency. Mr. Miller has begun to promote staff members who excel in their current positions. Mr. Miller feels these steps have helped to create a positive environment, and Staff is happy.

The biggest obstacle facing the agency is the IT infrastructure that needs replacement. It survived Y2K, but has been progressively degrading over time. It is a system of patches, with little or no documentation as to why the patches were applied; making it difficult for current consultants to determine what is causing the bugs in the system. Mr. Miller is working with the State to purchase new software. Staff reviewed several vendors and have narrowed it down to three vendors. The new software will meet all of the agency's needs in one system. The software would include licensing, internally and externally through the web, to allow applicants the ability to apply for a license or renew their license online. The software would track investigations, monitor financing, provide quality control reports and measures that allow the Board to monitor the system. Mr. Miller stated that Staff met with the contractors and defined the agency's entire process to ensure the system would work around the agency's process rather than the agency working around the system. The new software will greatly enhance Staff's ability to get the job done. Mr. Miller's goal is to allocate funds from the current 2-year budget cycle to pay for the software. In the past, the agency has gone twice to procurement for an IT system and neither time did the agency deliver on what they had received the money for. Instead of going back to procurement for a third time, the agency has decided to reduce cost in several areas, in order to allow the agency to use current budget funds to pay for the software over a period of a couple of years.

Mr. Miller stated Staff was able to determine there were 39 open physician assistant investigations. Fourteen of them are over 180 days. He noted that a small wave of cases was headed the Board's direction in the future.

Mr. Miller directed the Board to the Annual Report and the Strategic Plan that will go to the Governor. He pointed out the Annual Report is not as critical as the Strategic Plan, which discusses goals for the agency during the next few years. It is the agency's direction to make the Board more transparent and more useful to both the licensees and the public. The agency will have the ability to mine more information out of the data system after it is converted. That information will be used to help educate the licensees on areas that transmit problems, areas of improvement in the agency, or to inform the public about the different things going on at the agency and different ways to interact with the licensees. Mr. Miller hopes to improve the communication between patients and the licensees to help ensure that treatment is done properly. The agency will be publishing a newsletter in September that contains information that is positive and useful to licensees and the community. The newsletter may include some information on licensees that have been disciplined. Mr. Miller stated the thrust of newsletter is to convey important and timely information to licensees for their benefit. He hoped to have samples of the newsletter available for the Board in near future.

P.A. Tuttle announced that Dr. Klock was no longer on the Arizona Regulatory Board of Physician Assistants. He took a moment to acknowledge Dr. Klock and expressed how thankful and grateful the Board was for his service. Although Dr. Klock was not present for the meeting, P.A. Tuttle displayed a plaque that would be later presented to Dr. Klock to acknowledge and thank him for his service to the Board.

Proposed 2006 Board Meeting Dates

Albert Ray Tuttle, P.A.-C read the proposed meeting dates for the Board for 2006: March 1st, May 17th, August 23rd, and November 15th.

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to accept the meeting dates as proposed.

SECOND: Anna Marie Prassa

VOTE: 8-yay, 0-abstain/recuse, 1-absent

MOTION PASSED

Appoint Substitute Physician Member to Minor Surgical Procedure Committee

Albert Ray Tuttle, P.A.-C asked for nominations to fill the vacancy on the Minor Surgical Procedure Committee created by Dr. Klock's departure from the Board. He preferred that a physician member remain on the Committee.

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to nominate Peter C. Wagner, D.O. as the replacement for Dr. Klock on the Minor Surgical Procedure Committee

SECONDED: Joan M. Reynolds, P.A.-C

VOTE: 8-yay, 0-abstain/recuse, 0-nay, 1-absent

MOTION PASSED.

Joan M. Reynolds, P.A.-C recalled in the last meeting that in addition to the Minor Surgical Procedure Committee it was agreed to have a rules and regulations committee. Mr. Miller said the Board was not ready to start the standing committee yet because the Minor Surgical Procedure Committee is still trying to get their hands on the development of the rules. It is their preference to submit to the rules and regulations committee a draft set of rules.

Approve Minutes

May 18, 2005 Meeting Minutes

James Edward Meyer, M.D. noted that on page 3, P.A. Troy McCarthy talks about taking a physical history and not doing an examination and then later in P.A. McCarthy talks about him taking a complete history. The notes are confusing and need clarification.

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to accept the minutes with the modifications noted by James Edward Meyer, M.D.

SECONDED: Anna Marie Prassa

VOTE: 8-yay, 0-abstain/recuse, 0-nay, 1-absent

MOTION PASSED.

Executive Session Minutes

MOTION: Anna Marie Prassa moved to accept the Executive Session minutes.

SECONDED: James Edward Meyer, M.D.

VOTE: 8-yay, 0-abstain/recuse, 0-nay, 1-absent

MOTION PASSED.

Adopt Substantive Policy Statement – Physician Assistant Fees

Albert Ray Tuttle, P.A.-C directed the discussions to Timothy C. Miller, J.D. for an overview. Mr. Miller stated this was not for a fee increase. The purpose of the Substantive Policy Statement (SPS) is to list in the record what the fees are supposed to be. The agency recently requested a financial audit and the auditors suggested that having the fee increase in the minutes alone was not sufficient. Following a Substantive Policy Statement the fees would be placed in rule.

Mr. Miller explained that he had requested a financial audit and a business practice audit be done to ensure the agency was following all of the state rules and that all of the proper safeguards were in place. It was discovered in the preliminary audit findings that the Board had never codified the fees that were approved in the minutes. The auditors felt the approval was not sufficient and recommended: 1) the fees previously approved be codified in a substantive policy statement, and then 2) followed up with official rules. Mr. Miller reviewed the current fee structure and some of the changes that were discussed in the minutes. He noted that the Board did not go into detail in regards to all of the fees. Mr. Miller asked the Board to review the fees for approval.

Ms. Michelle Semenjuk, Licensing Manager, gave an overview of the fee structure. She explained the statutory ceiling could not be exceeded and the current fees are what the agency is currently charging. Ms. Semenjuk noted the only fees that were approved in the minutes were the verification of licensure and the copying of records. She pointed out that Staff is requesting the Board to review the fees and either raise them or keep them at their current fees.

P.A. Tuttle commented in years past there have been discussions with the Board concerning the Board earning its own way and the fees meeting the cost generated by the function of the Board. He asked if there was data available to support that. Mr. Miller noted that an analysis had not been conducted for that type of data yet. He indicated it was part of the budget evaluation that the agency is currently going through. Mr. Miller noted that Board Staff could provide data at the next Board meeting that would show the Administration cost for both the Arizona Board of Physician Assistants and the Arizona Medical Board. The data would indicate if the agency was self-supporting with the current fee structure or not. Mr. Miller mentioned if the Board wanted to discuss what the fees could or should be it would need to be added to the agenda as a change in fees.

Joan M. Reynolds, P.A.-C recalled the fees accurately reflect what was previously discussed.

MOTION: Joan M. Reynolds, P.A.-C moved to accept the fees as presented to the Board and requested staff to write a substantive policy statement as suggested by Mr. Miller.

SECONDED: Randy D. Daniels, Ph.D., P.A.-C

VOTE: 8-yay, 0-abstain/recuse, 0-nay, 1-absent

MOTION PASSED.

Randy D. Daniels, Ph.D., P.A.-C asked if down the road this policy and fee chart could be revisited. Mr. Miller stated that the Board could always go back and revisit those fees.

NON-TIME SPECIFIC ITEMS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT	LIC. #	RECOMMENDATION
1.	PA-04-0044A	N.G. BYRON K. GRAYSON, P.A.-C	2956	Dismissed.

Byron K. Grayson, PA. was present for the Call to the Public. P.A. Grayson stated that he takes practicing as a physician assistant and this case seriously. P.A. Grayson discussed the standard of care in a patient with leukocytosis, pelvic pain, cervical motion tenderness, and left adnexal tenderness. He noted that pelvic inflammatory disease (PID) is not recognized to occur in a subacute form without the necessity of fever and peritonitis. He stated the standard of care in emergency medicine is to culture, treat empirically, and follow-up. The standard of care in emergency medicine does not require perfection in establishing a diagnosis. It requires reasonable diligence and establishing a diagnosis and ruling out emergent conditions. To P.A. Grayson's knowledge it was never established that N.G. had an ovarian cyst. He stated that she could have easily had PID that was treated and symptoms resolved with antibiotics. In summary, P.A. Grayson felt that he established reasonable tentative diagnosis and reasonable treatment plan in prescribing the antibiotics he gave her.

Dr. Mark Nanney, Chief Medical Consultant, presented the case. The complaint came to the Board as a patient complaint. Dr. Sheerer, an internal Medical Consultant, reviewed the case and determined that there was no breach from the standard of care. Dr. Nanney stated that he did an independent review and he found that there was a breach and he presented the facts to the Board. A 31-year-old female was presented with acute pelvic pain with a history of polycystic ovary disease; she had cervical motion tenderness, super pubic tenderness, and an elevated white count of 13.2. P.A. Grayson prescribed medication appropriate to a diagnosis of PID. Dr. Nanney took exception to the diagnosis for PID with the absence of a sexual history.

Peter C. Wagner, D.O. commented that he agreed with Dr. Nanney that the history could have been better. Dr. Wagner noted in reviewing the record there was quite an extensive history, a review of symptoms, and appropriate treatment for what the illness was. Dr. Wagner did not feel that it would rise to the level of an advisory letter.

James Edward Meyer, M.D. found, in the Board materials, that Dr. Kirschner had also reviewed the case and had come to the same conclusions that Dr. Wagner was suggesting. Although more could have been done, the level of harm and any problem with the evaluation would not rise to a level requiring an advisory letter or disciplinary action. Dr. Meyer stated that there are two medical consultants with different opinions on the record.

MOTION: Michael E. Goodwin, P.A.-C moved to dismiss the case.

SECONDED: Peter C. Wagner, D.O.

VOTE: 8-yay, 0-abstain/recuse, 0-nay, 1-absent

MOTION PASSED.

2.	PA-04-0064A	ARBOPA	LINDA VANDERBEEK, P.A.-C	2867	Accept Proposed Consent Agreement for a Letter of Reprimand for failure to report an arrest for possession of prescription only drugs and Probation, with suggested modifications.
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Chris Banys, with the Monitored Aftercare Program (MAP), presented the case. On September 21, 2004, P.A. Vanderbeek contacted MAP staff to report that she had been abusing Hydrocodone. Because she was self-reporting her substance abuse problem, the Board opened a confidential case. P.A. Vanderbeek was evaluated at the Betty Ford Center with a diagnosis of opioid dependence and inpatient treatment recommendation. She entered for treatment at Chandler Valley Hope October 12th and was successfully discharged on November 5th. During treatment Board staff discovered that P.A. Vanderbeek had been arrested by the Scottsdale Police Department on September 5th and was charged with possession of prescription only drugs. The charge was dismissed by the Scottsdale City Attorney's Office on August 4, 2005. Upon discharge from Chandler Valley, P.A. Vanderbeek entered into a consent agreement for MAP participation. She has remained compliant with the terms of her agreement and the requirements of the Monitored Aftercare Program. The Board offered P.A. Vanderbeek a consent agreement for a Letter of Reprimand and probation, which she signed July 12, 2005. Staff recommends the Board accept the consent agreement.

Stephen Wolf, Assistant Attorney General, in reviewing the proposed consent agreement, noticed that the conclusion of law pertaining to failing to report a misdemeanor was not supported in the findings of fact. This conclusion was the basis for the Letter of Reprimand. P.A. Vanderbeek violated A.R.S. §32-3208, which requires a healthcare professional to report to the Board within 10 days any misdemeanor involving conduct that may affect patient safety. P.A. Vanderbeek did not report her misdemeanor. Mr. Wolf noted that language was absent from the Findings of Facts, to support the allegation. He submitted language to the Board to support the conclusion of law. Mr. Wolf recommended the handout be inserted between paragraph 2 and 3 of the Finding of Facts. He also suggested changing paragraph 4, the last 5 words of the first sentence be deleted and that sentence would end with the words "that she had been arrested."

Albert Ray Tuttle, P.A.-C asked for legal clarification on A.R.S. §32-3208. P.A. Tuttle stated the healthcare professional was arrested, but the case was dismissed. He asked if the statute required reporting for any arrest or only for conviction. Mr. Wolf replied the healthcare professional is required to report within 10 days of an arrest either for felony or for a misdemeanor that affects patient safety. In another portion of the practice act a P.A. can be disciplined for a felony or a misdemeanor involving moral turpitude. This would be a separate provision. She was not charged because she was not convicted. This particular misdemeanor does not involve moral turpitude.

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to approve the consent agreement with the recommended changes in paragraphs 2, 3, and 4.

SECONDED: Michael E. Goodwin, P.A.-C

Victoria Mangiapane, Assistant Attorney General, Solicitor Generals Office, stated if P.A. Vanderbeek did not agree to the changes in the Consent Agreement it would need to come back to the Board.

ROLL CALL VOTE: The following board members voted for the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C., Randy D. Danielson, Ph.D., P.A.-C., James Meyer, M.D., Anna Marie Prassa, Peter C. Wagner, D.O., Sigmund Popko, J.D., and Michael E. Goodwin, P.A.-C. The following Board members were absent: Barry D. Weiss, M.D. FAFP

VOTE: 8-yay, 0-abstain/recuse, 0-nay, 1-absent

MOTION PASSED.

3.	PA-03-0025B	S.G.	TROY S. MCCARTHY, P.A.-C	2118	Accept the Draft Finding of Facts, Conclusions of Law and Order for a Decree of Censure for inappropriately dispensing a prescription-only medication, as amended.
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Victoria Mangiapane, Assistant Attorney General, noted that items 3 and 4 are both Draft Findings, drafted by Christine Cassetta and are a result of the Formal Interviews. The Board's obligation is to review them and if they are in accordance with the results of the interview and the discipline is what the Board wants then the Board can approve them.

James Edward Meyer, M.D. stated he was not present at P.A. McCarthy's interview and asked the Board if it would be helpful for him to know the rationale behind the SIRC recommendation of 6-month suspension and a Decree of Censure. Peter C. Wagner, D.O. replied that this was a particular office that had been having multiple problems and there was serious doubt about the truthfulness of the allegations.

Stephen Wolf, Assistant Attorney General, commented on one of the conclusions of law that was common to both McCarthy orders. He stated that there was an allegation of a violation from section 32-2501(21)(x), which states "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate a provision of this chapter." In PA Sandra McCarthy's consent agreement, her counsel, Steve Meyers, sent a letter stating that he did not think there was evidence of facts to support a violation of that. Mr. Wolf agreed with Mr. Meyers. PA Sandra McCarthy testified she did not know when she took the Viagra tablets and gave them to her husband, that he would give them to someone else. The Findings of Facts state that she found out about it four months afterwards. Her having knowledge of how they would be transported to someone else makes it difficult to prove there was assisting, abetting, or conspiracy occurring and Mr. Wolf recommended deleting §32-2501(21)(x) from both orders.

Sigmund Popko, J.D. asked if the transfer between husband and wife, which they both knew about, would support the conclusion. Mr. Wolf said it was unclear from the evidence that he encouraged her to get the Viagra tablets for him. Dr. Meyer asked if the Board was

uncertain would it be appropriate to remove the wording from PA Sandra McCarthy's order and leave it in for PA Troy McCarthy. Mr. Meyers felt if PA Troy McCarthy asked her to obtain them for him then leave the wording in for him would be okay.

Anna Marie Prassa commented that the report stated, "Sometime in January 2002 I told my wife Sandra McCarthy that I would like to try Viagra." Mr. Wolf stated that PA Sandra McCarthy could not prescribe it for him, and in order to make it a conspiracy PA Troy McCarthy would have had to go further than expressing a desire to try it, he would have had to urge her to obtain the Viagra for him.

Mr. Popko commented that PA Sandra McCarthy's narrative to the investigators was not completely truthful. He asked if her conduct there, even though it was later explained, could it be viewed as a cover-up or as not being forthcoming, and would that support this conclusion. Mr. Wolf felt that it could support the conclusion because she did make false statements, which would link it to imbedding.

Dr. Meyer asked if the sentence was removed would it substantially change the rest of the Order. Mr. Wolf felt that it would not change the Order and felt that the Order would still be more than sufficient to support the discipline. Randy D. Danielsen, Ph.D., P.A.-C asked if Mr. Wolf was comfortable with keeping the draft findings of fact, conclusions of law and order unchanged for PA Troy McCarthy. Mr. Wolf stated that if it is clear that the assisting, abetting, or conspiracy was surrounding the false statements to the Board, he felt the Findings of Facts would need to state that.

Dr. Meyer read paragraph §32-2501(21)(bb) after the narrative that states, "Knowingly making a false and misleading statement in the formal interview before the Board..." Dr. Meyer stated that it already includes this as one of the infractions. Mr. Wolf stated that would be okay to leave in, but that something would need to be added to the Findings of Facts that states, "They conspired together to knowingly make false statements to the Board."

P.A. Tuttle referred to the supplemental information provided by PA Sandra McCarthy's attorney that requested a correction to the Conclusions of Law and Order. Mr. Meyers requested it be changed to "any conduct that is or might be dangerous to the health of a patient or the public". P.A. Tuttle did not feel there was evidence presented to support that what occurred was actual harm although there was the potential for harm. Mr. Wolf stated that Mr. Meyers was only pointing out that the full statute needed to be cited. Mr. Wolf agreed with Mr. Meyers.

P.A. Tuttle clarified that the statute does not prohibit a physician assistant from prescribing non-controlled substances to family members.

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to approve the Draft Findings of Facts, and Conclusions of Law and Order as amended.

SECONDED: Anna Marie Prassa

ROLL CALL VOTE: The following board members voted for the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C., Randy D. Danielson, Ph.D., P.A.-C., James Meyer, M.D., Anna Marie Prassa, Peter C. Wagner, D.O., Sigmund Popko, J.D., and Michael E. Goodwin, P.A.-C. The following Board members were absent: Barry D. Weiss, M.D. FAAFP

VOTE: 8-yay, 0-abstain/recuse, 0-nay, 1-absent

MOTION PASSED.

4.	PA-03-0025A	S.G.	SANDRA L. MCCARTHY, P.A.-C	2116	Accept Draft Finding of Facts, Conclusions of law and Order for a Letter of Reprimand for inappropriately dispensing a prescription-only medication, as amended.
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Albert Ray Tuttle, P.A.-C stated the changes previously discussed under Troy McCarthy's case PA-03-0025B concerning the statement of conspiring may be applicable in this case, but not in the Mr. McCarthy's case. James Edward Meyer, M.D. asked for clarification and noted this was for a Letter of Reprimand versus a Decree of Censure. Dr. Meyers referred back to Mr. Wolf's comments regarding the wording in the Conclusions of Law. For clarification purposes Mr. Wolf stated he would like to see paragraph §32-2501(21)(x) removed and the statute regarding potential harm needs to be spelled out.

MOTIONED: Randy D. Danielsen, Ph.D., P.A.-C moved to accept Draft Findings of Facts, Conclusions of Law and Order as amended.

SECONDED: Anna Marie Prassa

ROLL CALL VOTE: The following board members voted for the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C., Randy D. Danielson, Ph.D., P.A.-C., James Meyer, M.D., Anna Marie Prassa, Peter C. Wagner, D.O., Sigmund Popko, J.D., and Michael E. Goodwin, P.A.-C. The following Board members were absent: Barry D. Weiss, M.D. FAAFP

VOTE: 8-yay, 0-abstain/recuse, 0-nay, 1-absent

MOTION PASSED.

5.	PA-04-L200A	ARBOPA	AUGUSTIN MARSHALL, P.A.-C	N/A	Approve Application for Licensure
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Augustin Marshall, P.A.-C made a statement at the Call to the Public. P.A. Marshall stated that nearly half a century ago, he began his career of service as a nursing assistant in an operating room. He learned the instruments and progressed to scrub nurse. Through the Manpower program he completed the requirements for licensed practical nurse and began working in research. Dr. Wessalowski, a cardiovascular surgeon, provided P.A. Marshall with the opportunity to learn surgery. He described Dr. Wessalowski, as dedicated, courageous, honest, and having humility. Dr. Wessalowski's teachings provided P.A. Marshall with the template to facilitate his service to others and taught him patience. Dr. Wessalowski taught that you always learn that which is necessary. These teachings enabled P.A. Marshall, as a critical care registered nurse, to be able to walk into any I.C.U. setting and provide the best of care to his patients. P.A. Marshall stated that he also learned from others that the highest calling to man or woman is providing service to our fellow human

beings. He stated it is a life of sacrifice and constant learning, of never being content with your present knowledge, of fully knowing that a life or lives have been entrusted to you. Dr. Wessalowski's life epitomized the essence of love; he touched his patients both figuratively and literally, and in doing so was spiritually enriched beyond measure. P.A. Marshall commented that the practice of medicine at times is a heady experience. For example, bringing a new life into the world again and again numerous times, to write the discharge orders, and to see the mother and baby leave the hospital. Or, to make a hole in the finger or a toenail, which has been crushed, and to immediately see the relief of pain. And to know you are amongst a chosen few to cause these events to occur. He stated it is often necessary to remember the virtue of humility. P.A. Marshall felt fortunate to have Dr. Wessalowski as his role model. Out of respect to the Board, his enormous debt to all his medical teachers, and to his patients whom he has helped and who have entrusted him to their care, that he presents himself to the Board today.

Marlene Young, Senior Medical Investigator presented the case. In November 2004, the Board returned this case to investigations for the additional information. At that time, the Board requested a psychological evaluation, information related to P.A. Marshall's residency program, and employment verification from Planned Parenthood. October 15, 2004 Licensing received an application from P.A. Marshall for a Physician Assistant's license to practice medicine in Arizona. The issue of this investigation involves P.A. Marshall and his prior criminal actions in the State of New York for attempted assault in 1974 and time served for the crime. During his incarceration, P.A. Marshall completed the requirements for registered nursing. After his incarceration he was granted a nursing license in several states. Currently he is licensed as a nurse in Arizona. In 1985, P.A. Marshall received his P.A. certification. He was granted a P.A. license in several states and is currently licensed as a P.A. in New York.

Ms. Young presented the results of the information the Board requested. She stated that Dr. Bortz performed the psychological evaluation and based on his findings recommended P.A. Marshall undergo a comprehensive neurological workup including a brain MRI and metabolic studies to rule out underlying organicity problem. Dr. Woodruff concluded that P.A. Marshall could likely function independently without specific restrictions. The Director's Assistant for the residency program stated that P.A. Marshall completed the program satisfactorily. The Planned Parenthood employment verification did not reflect any negative comments, the verification results noted he left to pursue his interests in primary care and the services required by the position at Planned Parenthood were limited.

Ms. Young concluded that Board Staff's recommendation is to issue P.A. Marshall a license because P.A. Marshall has been honest with his past history; he has been compliant by undergoing the requested evaluations; there have been no derogatory findings related to his previous employment history; and there are no other issues except what was presented before the Board today.

MOTION: Peter C. Wagner, D.O. moved to approve licensure.

SECONDED: Sigmund Popko, J.D.

James Edward Meyer, M.D. asked why P.A. Marshall's Physician Assistant license was cancelled in 1993. Michele Semenjuk, Licensing Office Manager, explained that P.A. Marshall stated he had not been in California from 1989 on. Normally a cancellation or non-renewal is not a derogatory issue. She felt he probably did not renew his license. Cancellation with cause would be an issue but cancellation by itself is not.

VOTE: 7-yay, 1-nay, 0-abstained/recused, 1-absent (Michael E. Goodwin, P.A.-C opposed, Barry D. Weiss, M.D., FAAFP was absent.)

MOTION PASSED.

6.	PA-03-0036	A.D.	JAN M. HUGHES, P.A.-C	2572	Reject the proposed consent agreement and return the case to investigations for additional information, and invite P.A. Hughes back for a formal interview following the investigation without an option for a consent agreement.
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Albert Ray Tuttle, P.A.-C explained that Jan M. Hughes, P.A.-C consented to a Decree of Censure and a stayed suspended license for 6 months to complete the items listed in the order.

Peter C. Wagner, D.O. asked if Board Staff recommended this consent agreement. Mr. Miller replied that Staff did recommend the agreement. Dr. Wagner noted that the original case stated that P.A. Hughes over prescribed to her husband and over prescribed the amount of pills to another patient. Dr. Wagner commented that the violation was not noted anywhere in the agreement. He was concerned, with a stayed suspension, that this might be a pattern for her. Dr. Wagner thought that she was allowed to prescribe controlled substances for a two-week period and according to the pharmacy record it appeared that she wrote several prescriptions that extended beyond the 14 days; one patient was prescribed a quantity of 90 pills with two refills, another patient was prescribed 180 pills with five refills, and in another situation she over prescribed Valium.

Albert Ray Tuttle, P.A.-C asked if it was reasonable or within the Board's authority to permanently or for a designated period of time remove prescriptive privileges for schedule II and III controlled substances. Mr. Miller said it could not be done at this time. The Board would have to amend the consent agreement and see if she would agree. Otherwise it would have to go back to investigations, she would be noticed on that statutory provision and the findings of facts, and then it would come back for another consent agreement or a formal interview.

Albert Ray Tuttle, P.A.-C noted that there were findings of facts established that P.A. Hughes prescribed controlled substances, which includes scheduled II and III controlled substances to family members in violation of the statute, and therefore it would not be unreasonable to consider Mr. Miller's suggestion based on that fact. Mr. Miller replied that she was not noticed on over prescribing to patients. She was only noticed on prescribing to family members, which was included in the Findings of Facts in the Consent Agreement.

Dr. Danielsen asked if approving the consent agreement would preclude the Board from opening a separate case. Mr. Miller stated if the consent agreement was accepted it would conclude this matter. A separate case could be opened with a chart review to see if there was a pattern or history with other patients. P.A. Tuttle suggested asking Board Staff to do a pharmacy review to see if there are other non-family member patients involved to determine if there is a pattern of not adhering to the established regulations. Mr. Miller agreed that it would be acceptable to do that.

James Edward Meyer, M.D. read to the Board from the records that P.A. Hughes prescribed 180 Xanax. He noted this was beyond the authority she has. Dr. Wagner commented that this was a schedule IV controlled substance.

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to approve the consent agreement as presented.
SECONDED: James Edward Meyer, M.D.

Victoria Mangiapane explained to the Board the pros and cons of accepting the consent agreement today and opening a future case. When the Board adjudicates a proceeding with disciplinary action on a P.A.'s record instead of adjudicating an entire case with the entire realm of conduct that may lead to a particular disciplinary action, the Board is stopping itself to compartmentalize cases. If the Board postpones the matter and allows it to go back for a full investigation to gather all the information and then adjudicates the matter as one combined discipline, then the results could be more severe if the conduct and facts supports it. If the Board stops itself midway and creates a future case, then they would only be dealing with a disciplinary action based on limited facts.

Ms. Mangiapane was concerned that the Board might be pigeon holing themselves if they signed a consent agreement today with a limited case in the future. She offered an additional option to the Board to redirect staff to create a different agreement if they find additional facts and possibly different disciplinary action. Ms. Mangiapane commented that consent agreements are always an option even if a case is pending at a formal hearing. Sometimes litigators can work on a consent agreement based on what they determine the evidence and facts to be if they have a chance to further investigate.

Albert Ray Tuttle, P.A.-C asked if this was investigated further with the allegations discussed, would there be a potential that the consent agreement would need to be changed. Mr. Miller answered if it was sent back for more investigations it could ultimately change the Board's recommendation to include a suspension of prescribing privileges along with the Decree of Censure. On the other hand if the Board accepts the Decree of Censure and a subsequent investigation is done, then the Board would only have a prior disciplinary action that could be taken into account for a subsequent disciplinary action based on an aggravating factor.

James Edward Meyer, M.D. asked if P.A. Hughes was practicing without restriction and if she was in a supervising position that has been approved by the Board. He noted that the supervising issue that had been discussed did not appear to exist in the Consent Agreement. Amanda Diehl, Deputy Executive Director, replied that P.A. Hughes's web profile shows that she does have a supervising physician and she does not have any restrictions.

ROLL CALL VOTE: The following Board Members were in favor of the motion: Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James Edward Meyer, M.D. The following Board Members opposed the motion: P.A.-C, Sigmund Popko, J.D., Anna Marie Prassa, Joan M. Reynolds, Albert Ray Tuttle, P.A.-C, and Peter C. Wagner, D.O. The following Board Member was absent: Barry D. Weiss, M.D., FAFP
VOTE: 3-yay, 5-nay, 0-abstain/recused, 1-absent
MOTION FAILED

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to reject the proposed consent agreement and return the case to investigations for additional information on prescribing. Dr. Danielsen also moved to invite the physician assistant back for a formal interview following the investigation without an option for a consent agreement.
SECONDED: Anna Marie Prassa

James Edward Meyer, M.D. noted that P.A. Hughes has a supervising position and continues to practice. He asked if it was possible to put restrictions on her prescribing during the investigation. Victoria Mangiapane answered the Board could not do that today. Ms. Mangiapane commented that the Board has authority to summarily suspend the license or restrict her prescribing privileges, but it would need to be based on the investigation. If there is a determination after the investigation that there is an immediate threat to the public welfare then it could be done. Mr. Miller commented that the Board could do a teleconference on short notice if Staff concludes that there is an imminent threat to the public and the P.A. would be noticed on that.

P.A. Tuttle suggested that P.A. Hughes come in for a formal interview without a consent agreement. As a result of a formal interview certain disciplinary actions could be taken that cannot be taken based on the way it is currently set up.

Sigmund Popko, J.D. asked if the proposed consent agreement contained anything that would have restricted her prescribing privileges had it been approved today. Mr. Miller answered that the issue was not addressed in the proposed consent agreement.

The Board asked what the continued investigation would entail. Mr. Miller replied that investigations would renotice the physician assistant on the allegations regarding over prescribing, they would then investigate the chart reviews and pharmacy audit with regards to prescribing habits. It would include a medical consultant review to determine if the prescriptions and amounts were proper.

ROLL CALL VOTE: The following board members voted for the motion: Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C., James Meyer, M.D., Sigmund Popko, J.D., Anna Marie Prassa, Joan M. Reynolds, P.A.-C., Albert Ray Tuttle, P.A.-C, and Peter C. Wagner, D.O. The following Board members were absent: Barry D. Weiss, M.D. FAAFP
VOTE: 8-yay, 0-abstain/recuse, 0-nay, 1-absent
MOTION PASSED.

NO.	PHYSICIAN ASSISTANT	LIC #	REQUEST
1.	KIMBERLY SARGENT, P.A.	2555	Grant the request for CME Extension

Michelle Semenjuk, Licensing Office Manager, presented the case. P.A. Sargent requested an extension of the Continuing Medical Education (CME) requirements for 2005-2006. She received 33 and $\frac{3}{4}$ hours of CME in June of 2004 before the year began and thought it could be applied to the 2005-2006 period. She has a total of 7 hours of CME for 2005-2006 and is missing 13 additional hours to complete her requirements and is requesting an extension. She needed them by July 1st, 2005. She had completed the CME a month early. Because she cannot carry the hours over by statute she is requesting she get the additional 13 hours this year in addition to her normal requirements. This means she would need to complete 33 hours in 2005-2006.

Albert Ray Tuttle, P.A.-C asked if P.A. Sargent gave an explanation for missing these hours. Ms. Semenjuk felt it was a misunderstanding. Randy D. Danielsen, Ph.D., P.A.-C commented that physician assistants who certify nationally are required to complete 100 hours every two years and they are allowed to carry over hours during a certain time frame. He understood where the confusion may have come from and discussed possibly reviewing our statutes later on to align them with the national requirements. Peter C. Wagner, D.O. understood the confusion and misunderstandings, but still felt it was her responsibility to know the Arizona rules. He asked if this would arise to the level of an Advisory Letter.

Joan M. Reynolds, P.A.-C did not feel this was an Advisory Letter issue and P.A. Sargent was a very upstanding physician assistant in the Flagstaff area. P.A. Reynolds felt that it probably was a misunderstanding.

Michael E. Goodwin, P.A.-C commented that P.A. Sargent needs 13 hours and should be given an extension to complete her delinquent hours and then allow her to turn in her hours for the next year in the normal process. P.A. Tuttle agreed. Dr. Meyer also agreed and felt she needed to have a deadline to complete the 13 delinquent hours.

Sigmund Popko, J.D. asked if there was any evidence that this P.A. had similar record-keeping problems in the past. Ms. Semenjuk replied this was the first time it has occurred, that it never happened before. Dr. Danielsen asked what would happen if the Board decided not to do an extension. Ms. Semenjuk replied that the Board has never denied anyone the extension before. According to statute the physician assistant must request an extension 30 days prior to the deadline. If the physician assistant is late in requesting an extension, based on history, the Board has normally issued Advisory Letters with the approved extension. P.A. Sargent did ask for the extension within the required time frame.

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to grant the extension of the CME requirements for 2005-2006 to be completed within 60 days.

SEDCONDED: Anna Marie Prassa

VOTE: 8-yay, 0-nay, 0-abstained/recused, 1-absent

MOTION PASSED.

Randy D. Danielsen, Ph.D., P.A.-C requested that an item be added to agenda to look at statute and possibly amend it to allow a window of time to carry over CME hours. Albert Ray Tuttle, P.A.-C agreed to ask Staff to include this as a future agenda item. Mr. Miller commented that the window of opportunity for this legislative session closes in three days. Dr. Danielsen did not feel it needed to be addressed that the statute needed to be amended that quickly.

Albert Ray Tuttle, P.A.-C suggested adding an agenda item to the next meeting schedule for establishing a Standing Committee to review minor surgery cases as they come up in the committee meetings.

MOTION: Randy D. Danielsen, Ph.D., P.A.-C

SECONDED: James Edward Meyer, M.D.

Meeting adjourned at 2:32.

[Seal]

Timothy C. Miller, J.D., Executive Director